

Before the
POSTAL REGULATORY COMMISSION
WASHINGTON, DC 20268-0001

Before Commissioners:

Ruth Y. Goldway, Chairman;
Mark Acton, Vice Chairman; and
Robert G. Taub

Competitive Product Prices
Priority Mail
Priority Mail Contract 84

Docket No. MC2014-33

Competitive Product Prices
Priority Contract 84 (MC2014-33)
Negotiated Service Agreement

Docket No. CP2014-59

PUBLIC REPRESENTATIVE COMMENTS ON
REQUEST OF THE UNITED STATES POSTAL SERVICE TO ADD
PRIORITY MAIL CONTRACT 84 TO THE COMPETITIVE PRODUCT LIST
(July 31, 2014)

The Public Representative hereby provides comments pursuant to Order No. 2135.¹ In that Order, the Commission established the above referenced docket to receive comments from interested persons, including the undersigned Public Representative, on the Postal Service's request to add Priority Mail Contract 84 to the competitive products list.

Discussion

The Public Representative has reviewed the Postal Service's Request, Statement of Supporting Justification, attached contract, Certification of Compliance with 39 U.S.C. 3633(a), and the Postal Service's proposed revised changes to the Mail Classification Schedule (MCS). The Public Representative has also reviewed the

¹ PRC Order No. 2135. Notice and Order Concerning the Addition of Priority Mail Contract 84 to the Competitive Product List. July 25, 2014.

supporting financial models for the contract filed separately under seal. Based upon that review, the Public Representative concludes that the Priority Mail Contract 84 satisfies the criteria of section 3642(b), concerning the classification of new competitive products, and complies with the requirements of section 3633(a), concerning rates for competitive products.

Under 39 U.S.C. § 3642(b) the criteria governing Commission review are whether the product (1) qualifies as market dominant, (2) is covered by the postal monopoly and therefore precluded from classification as a competitive product, and (3) reflects certain market considerations, including private sector competition, the impact on small businesses, and the views of product users. The Postal Service makes reasonable arguments that the Priority Mail Contract 82 satisfies these considerations found in section 3642(b).

Pursuant to 39 U.S.C. § 3633(a), the Postal Service's competitive prices must not result in the subsidization of competitive products by market dominant products; ensure that each competitive product will cover its attributable costs; and, ensure that all competitive products collectively contribute an appropriate share of the institutional costs of the Postal Service. Based upon a review of the financial models filed under seal with the Postal Service's Notice, it appears the negotiated prices in the contract should generate sufficient revenues to cover costs and thereby satisfy the requirements of section 3633(a).

The contract is expected to remain in effect for a period of three years. The contract may be (1) terminated by either party with 60 days notice to the other party in writing, (2) renewed by mutual agreement in writing, (3) superseded by a subsequent contract between the parties, (4) ordered by the Commission or a court, or (5) required to comply with subsequently enacted legislation.²

The Postal Service provides no definite evidence to demonstrate that the contract will comply with the requirements of 39 U.S.C. § 3633(a) during the second and third years of the contract. This concern is largely mitigated by the fact that the terms of

² Request of the United States Postal Service to Add Priority Mail Contract 84 to Competitive Product List and Notice of Filing (Under Seal) of Unredacted Governors' Decision, Contract, and Supporting Data. Attachment B. Page 3. July 23, 2014.

the contract provide a formula for an annual adjustment in the negotiated rates that should permit revenues to cover costs during years 2 and 3.³ The Commission also has an opportunity to conduct an annual compliance review in its Annual Compliance Determination.

The Public Representative asks the Commission to examine one other aspect of the contract's analysis. Its accuracy is dependent on the estimate of the cost inflation factor forecasted by Global Insight. The Commission should note that forecasting, albeit from a reputable institution, is not an exact science. As such, the Commission should make an annual effort to record the accuracy of such factors and its corresponding effect on cost models such as the one accompanying Priority Mail Contract 84.

Conclusion

The Public Representative, after reviewing all materials the Postal Service submitted under seal in this matter, acknowledges that the pricing for the Priority Mail Contract 84 appears to comport with relevant provisions of title 39.

The Public Representative respectfully submits the foregoing comments for the Commission's consideration.

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³ See Appendix B of Request of the United States Postal Service to Add Priority Mail Contract 84 to the Competitive Product List and Notice of Filing (Under Seal) of Unredacted Governors' Decision, Contract, and Supporting Data. July 23, 2014. Page 2.